

SO. CAL. EQUAL ACCESS GROUP
Jason J. Kim (SBN 190246)
Jason Yoon (SBN 306137)
Kevin Hong (SBN 299040)
101 S. Western Ave., Second Floor
Los Angeles, CA 90004
Telephone: (213) 252-8008
Facsimile: (213) 252-8009
scalequalaccess@yahoo.com

Attorneys for Plaintiff
SAM BENFORD

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SAM BENFORD,

Plaintiff,

vs.

SATIN OAK PROPERTIES LP; and
DOES 1 to 10,
Defendants.

Case No.:

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES FOR DENIAL
OF CIVIL RIGHTS OF A DISABLED
PERSON IN VIOLATIONS OF

1. AMERICANS WITH DISABILITIES
ACT, 42 U.S.C. §12131 et seq.;

2. CALIFORNIA'S UNRUH CIVIL
RIGHTS ACT;

3. CALIFORNIA'S DISABLED
PERSONS ACT;

4. CALIFORNIA HEALTH & SAFETY
CODE;

5. NEGLIGENCE

Plaintiff SAM BENFORD ("Plaintiff") complains of Defendants SATIN OAK
PROPERTIES LP; and DOES 1 to 10 ("Defendants") and alleges as follows:

PARTIES

1. Plaintiff is a California resident with a physical disability. Plaintiff is
hemiplegic due to a stroke, and is substantially limited in his ability to walk. Plaintiff
requires the use of a wheelchair at all times when traveling in public.

1 2. Defendants are, or were at the time of the incident, the real property owners,
2 business operators, lessors and/or lessees of the real property for a restaurant
3 (“Business”) located at or about 3391 Atlantic Blvd., Long Beach, California.

4 3. The true names and capacities, whether individual, corporate, associate or
5 otherwise of Defendant DOES 1 through 10, and each of them, are unknown to Plaintiff,
6 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
7 Court to amend this Complaint when the true names and capacities have been
8 ascertained. Plaintiff is informed and believes and, based thereon, alleges that each such
9 fictitiously named Defendants are responsible in some manner, and therefore, liable to
10 Plaintiff for the acts herein alleged.

11 4. Plaintiff is informed and believes, and thereon alleges that, at all relevant
12 times, each of the Defendants was the agent, employee, or alter-ego of each of the other
13 Defendants, and/or was acting in concert with each of the other Defendants, and in doing
14 the things alleged herein was acting with the knowledge and consent of the other
15 Defendants and within the course and scope of such agency or employment relationship.

16 5. Whenever and wherever reference is made in this Complaint to any act or
17 failure to act by a defendant or Defendants, such allegations and references shall also be
18 deemed to mean the acts and failures to act of each Defendant acting individually, jointly
19 and severally.

20 **JURISDICTION AND VENUE**

21 6. The Court has jurisdiction of this action pursuant to 28 USC §§ 1331 and
22 1343 for violation of the Americans with Disabilities Act of 1990, (42 USC §12101, *et*
23 *seq.*)

24 7. Pursuant to pendant jurisdiction, attendant and related causes of action,
25 arising from the same nucleus of operating facts, are also brought under California law,
26 including, but not limited to, violations of California Civil Code §§51, 51.5, 52(a), 52.1,
27 54, 54., 54.3 and 55.

28 8. Plaintiff’s claims are authorized by 28 USC §§ 2201 and 2202.

1 9. Venue is proper in this court pursuant to 28 USC §1391(b). The real
2 property which is the subject of this action is located in this district, Los Angeles County,
3 California, and that all actions complained of herein take place in this district.

4 **FACTUAL ALLEGATIONS**

5 10. In or about June of 2023, Plaintiff went to the Business.

6 11. The Business is a restaurant business establishment, open to the public, and
7 is a place of public accommodation that affects commerce through its operation.
8 Defendants provide parking spaces for customers.

9 12. While attempting to enter the Business during each visit, Plaintiff personally
10 encountered a number of barriers that interfered with his ability to use and enjoy the
11 goods, services, privileges, and accommodations offered at the Business.

12 13. To the extent of Plaintiff's personal knowledge, the barriers at the Business
13 included, but were not limited to, the following:

- 14 a. Defendants failed to comply with the federal and state standards for
15 the parking space designated for persons with disabilities. Defendants
16 failed to post required signage such as "Van Accessible."
17 b. Defendants failed to comply with the federal and state standards for
18 the parking space designated for persons with disabilities. Defendants
19 failed to paint the ground as required.
20 c. Defendants failed to comply with the federal and state standards for
21 the parking space designated for persons with disabilities. Defendants
22 failed to provide an access aisle with level surface slope as there was a
23 permanent ramp installed within the boundary of the access aisle.

24 14. These barriers and conditions denied Plaintiff the full and equal access to the
25 Business and caused Plaintiff difficulty and frustration. Plaintiff wishes to return and
26 patronize the Business; however, Plaintiff is deterred from visiting the Business because
27 his knowledge of these violations prevents him from returning until the barriers are
28 removed.

1 15. Based on the violations, Plaintiff alleges, on information and belief, that
 2 there are additional barriers to accessibility at the Business after further site inspection.
 3 Plaintiff seeks to have all barriers related to his disability remedied. *See Doran v. 7-
 4 Eleven, Inc.* 524 F.3d 1034 (9th Cir. 2008).

5 16. In addition, Plaintiff alleges, on information and belief, that Defendants
 6 knew that particular barriers render the Business inaccessible, violate state and federal
 7 law, and interfere with access for the physically disabled.

8 17. At all relevant times, Defendants had and still have control and dominion
 9 over the conditions at this location and had and still have the financial resources to
 10 remove these barriers without much difficulty or expenses to make the Business
 11 accessible to the physically disabled in compliance with ADDAG and Title 24
 12 regulations. Defendants have not removed such barriers and have not modified the
 13 Business to conform to accessibility regulations.

14 **FIRST CAUSE OF ACTION**

15 **VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990**

16 18. Plaintiff incorporates by reference each of the allegations in all prior
 17 paragraphs in this complaint.

18 19. Under the Americans with Disabilities Act of 1990 (“ADA”), no individual
 19 shall be discriminated against on the basis of disability in the full and equal enjoyment of
 20 the goods, services, facilities, privileges, advantages, or accommodations of any place of
 21 public accommodation by any person who owns, leases, or leases to, or operates a place
 22 of public accommodation. *See* 42 U.S.C. § 12182(a).

23 20. Discrimination, *inter alia*, includes:

- 24 a. A failure to make reasonable modification in policies, practices, or
 25 procedures, when such modifications are necessary to afford such
 26 goods, services, facilities, privileges, advantages, or accommodations
 27 to individuals with disabilities, unless the entity can demonstrate that
 28 making such modifications would fundamentally alter the nature of

1 such goods, services, facilities, privileges, advantages, or
2 accommodations. 42 U.S.C. § 12182(b)(2)(A)(ii).

3 b. A failure to take such steps as may be necessary to ensure that no
4 individual with a disability is excluded, denied services, segregated or
5 otherwise treated differently than other individuals because of the
6 absence of auxiliary aids and services, unless the entity can
7 demonstrate that taking such steps would fundamentally alter the
8 nature of the good, service, facility, privilege, advantage, or
9 accommodation being offered or would result in an undue burden. 42
10 U.S.C. § 12182(b)(2)(A)(iii).

11 c. A failure to remove architectural barriers, and communication barriers
12 that are structural in nature, in existing facilities, and transportation
13 barriers in existing vehicles and rail passenger cars used by an
14 establishment for transporting individuals (not including barriers that
15 can only be removed through the retrofitting of vehicles or rail
16 passenger cars by the installation of a hydraulic or other lift), where
17 such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv).

18 d. A failure to make alterations in such a manner that, to the maximum
19 extent feasible, the altered portions of the facility are readily
20 accessible to and usable by individuals with disabilities, including
21 individuals who use wheelchairs or to ensure that, to the maximum
22 extent feasible, the path of travel to the altered area and the
23 bathrooms, telephones, and drinking fountains serving the altered
24 area, are readily accessible to and usable by individuals with
25 disabilities where such alterations to the path or travel or the
26 bathrooms, telephones, and drinking fountains serving the altered
27 area are not disproportionate to the overall alterations in terms of cost
28 and scope. 42 U.S.C. § 12183(a)(2).

21. Where parking spaces are provided, accessible parking spaces shall be provided. 1991 ADA Standards § 4.1.2(5); 2010 ADA Standards § 208. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 in (2440 mm) wide minimum and shall be designated “van accessible.” 1991 ADA Standards § 4.1.2(5)(b). For every six or fraction of six parking spaces, at least one shall be a van accessible parking space. 2010 ADA Standards § 208.2.4. Signs shall be 60 inches (1525 mm) minimum above the finish floor or ground surface measured to the bottom of the sign. 2010 ADA Standards § 502.6.

22. Under the ADA, the method and color of marking are to be addressed by State or local laws or regulations. See 36 C.F.R., Part 1191. Under the California Building Code (“CBC”), the parking space identification signs shall include the International Symbol of Accessibility. Parking identification signs shall be reflectorized with a minimum area of 70 square inches. Additional language or an additional sign below the International Symbol of Accessibility shall state “Minimum Fine \$250.” A parking space identification sign shall be permanently posted immediately adjacent and visible from each parking space, shall be located with its centerline a maximum of 12 inches from the centerline of the parking space and may be posted on a wall at the interior end of the parking space. See CBC § 11B-502.6, et seq.

23. Moreover, an additional sign shall be posted either in a conspicuous place at each entrance to an off-street parking facility or immediately adjacent to on-site accessible parking and visible from each parking space. The additional sign shall not be less than 17 inches wide by 22 inches high. The additional sign shall clearly state in letters with a minimum height of 1 inch the following: “Unauthorized vehicles parked in designated accessible spaces not displaying distinguishing placards or special license plates issued for persons with disabilities will be towed always at the owner’s expense...” See CBC § 11B-502.8, et seq.

24. Here, Defendants failed to provide the sign stating “Van Accessible.”

1 25. For the parking spaces, access aisles shall be marked with a blue painted
2 borderline around their perimeter. The area within the blue borderlines shall be marked
3 with hatched lines a maximum of 36 inches (914 mm) on center in a color contrasting
4 with that of the aisle surface, preferably blue or white. The words "NO PARKING" shall
5 be painted on the surface within each access aisle in white letters a minimum of 12 inches
6 (305 mm) in height and located to be visible from the adjacent vehicular way. CBC §
7 11B-502.3.3.

8 26. Here, Defendants failed to provide a proper access aisle as there was no "NO
9 PARKING" painted on the parking surface.

10 27. Under the 1991 Standards, parking spaces and access aisles must be level
11 with surface slopes not exceeding 1:50 (2%) in all directions. 1991 Standards § 4.6.2.
12 Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles
13 shall be part of an accessible route to the building or facility entrance and shall comply
14 with 4.3. Two accessible parking spaces may share a common access aisle. Parked
15 vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces
16 and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all
17 directions. 1991 Standards § 4.6.3.

18 28. Here, the access aisle is not level with the parking spaces as there was a
19 permanent ramp installed within the boundary of the access aisle. Under the 2010
20 Standards, access aisles shall be at the same level as the parking spaces they serve.
21 Changes in level are not permitted. 2010 Standards § 502.4. "Access aisles are required
22 to be nearly level in all directions to provide a surface for transfer to and from vehicles."
23 2010 Standards § 502.4 Advisory. Id. No more than a 1:48 slope is permitted.

24 29. A public accommodation shall maintain in operable working condition those
25 features of facilities and equipment that are required to be readily accessible to and usable
26 by persons with disabilities by the Act or this part. 28 C.F.R. 35.211(a).

1 30. By failing to maintain the facility to be readily accessible and usable by
2 Plaintiff, Defendants are in violation of Plaintiff's rights under the ADA and its related
3 regulations.

4 31. The Business has denied and continues to deny full and equal access to
5 Plaintiff and to other people with disabilities. Plaintiff has been and will continue to be
6 discriminated against due to the lack of accessible facilities, and therefore, seeks
7 injunctive relief to alter facilities to make such facilities readily accessible to and usable
8 by individuals with disabilities.

9 **SECOND CAUSE OF ACTION**

10 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

11 32. Plaintiff incorporates by reference each of the allegations in all prior
12 paragraphs in this complaint.

13 33. California Civil Code § 51 states, "All persons within the jurisdiction of this
14 state are free and equal, and no matter what their sex, race, color, religion, ancestry,
15 national origin, disability, medical condition, genetic information, marital status, sexual
16 orientation, citizenship, primary language, or immigration status are entitled to the full
17 and equal accommodations, advantages, facilities, privileges, or services in all business
18 establishments of every kind whatsoever."

19 34. California Civil Code § 52 states, "Whoever denies, aids or incites a denial,
20 or make any discrimination or distinction contrary to Section 51, 51.5, or 51.6, is liable
21 for each and every offense for the actual damages, and any amount that may be
22 determined by a jury, or a court sitting without a jury, up to a maximum of three times the
23 amount of actual damage but in no case less than four thousand dollars (\$4,000) and any
24 attorney's fees that may be determined by the court in addition thereto, suffered by any
25 person denied the rights provided in Section 51, 51.5, or 51.6.

26 35. California Civil Code § 51(f) specifies, "a violation of the right of any
27 individual under federal Americans with Disabilities Act of 1990 (Public Law 101-336)
28 shall also constitute a violation of this section."

1 case less than one thousand dollars (\$1,000) and any attorney's fees that may be
 2 determined by the court in addition thereto, suffered by any person denied the rights
 3 provided in Section 54, 54.1, and 54.2.

4 41. California Civil Code § 54(d) specifies, "a violation of the right of an
 5 individual under Americans with Disabilities Act of 1990 (Public Law 101-336) also
 6 constitute a violation of this section, and nothing in this section shall be construed to limit
 7 the access of any person in violation of that act.

8 42. The actions and omissions of Defendants alleged herein constitute a denial
 9 of full and equal accommodation, advantages, and facilities by physically disabled
 10 persons within the meaning of California Civil Code § 54. Defendants have
 11 discriminated against Plaintiff in violation of California Civil Code § 54.

12 43. The violations of the California Disabled Persons Act caused Plaintiff to
 13 experience difficulty, discomfort, and embarrassment. The Defendants are also liable for
 14 statutory damages as specified in California Civil Code §55.56(a)-(c).

15 **FOURTH CAUSE OF ACTION**

16 **CALIFORNIA HEALTH & SAFETY CODE § 19955, et seq.**

17 44. Plaintiff incorporates by reference each of the allegations in all prior
 18 paragraphs in this complaint.

19 45. Plaintiff and other similar physically disabled persons who require the use of
 20 a wheelchair are unable to use public facilities on a "full and equal" basis unless each
 21 such facility is in compliance with the provisions of California Health & Safety Code §
 22 19955 et seq. Plaintiff is a member of the public whose rights are protected by the
 23 provisions of California Health & Safety Code § 19955 et seq.

24 46. The purpose of California Health & Safety Code § 1995 et seq. is to ensure
 25 that public accommodations or facilities constructed in this state with private funds
 26 adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of
 27 Title 1 of the Government Code. The code relating to such public accommodations also
 28 require that "when sanitary facilities are made available for the public, clients, or

employees in these stations, centers, or buildings, they shall be made available for persons with disabilities.

47. Title II of the ADA holds as a “general rule” that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of goods (or use), services, facilities, privileges, and accommodations offered by any person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a). Further, each and every violation of the ADA also constitutes a separate and distinct violation of California Civil Code §§ 54(c) and 54.1(d), thus independently justifying an award of damages and injunctive relief pursuant to California law, including but not limited to Civil Code § 54.3 and Business and Professions Code § 17200, et seq.

FIFTH CAUSE OF ACTION

NEGLIGENCE

48. Plaintiff incorporates by reference each of the allegations in all prior paragraphs in this complaint.

49. Defendants have a general duty and a duty under the ADA, Unruh Civil Rights Act and California Disabled Persons Act to provide safe and accessible facilities to the Plaintiff.

50. Defendants breached their duty of care by violating the provisions of ADA, Unruh Civil Rights Act and California Disabled Persons Act.

51. As a direct and proximate result of Defendants’ negligent conduct, Plaintiff has suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for relief and judgment against Defendants as follows:

1. For preliminary and permanent injunction directing Defendants to comply with the Americans with Disability Act and the Unruh Civil Rights Act;

2. Award of all appropriate damages, including but not limited to statutory damages, general damages and treble damages in amounts, according to proof;

1 3. Award of all reasonable restitution for Defendants' unfair competition
2 practices;

3 4. Reasonable attorney's fees, litigation expenses, and costs of suit in this
4 action;

5 5. Prejudgment interest pursuant to California Civil Code § 3291; and

6 6. Such other and further relief as the Court deems just and proper.

7 **DEMAND FOR TRIAL BY JURY**

8 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby
9 demands a trial by jury on all issues so triable.

10
11 Dated: September 19, 2023

SO. CAL. EQUAL ACCESS GROUP

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14 By: /s/ Jason J. Kim
15 Jason J. Kim, Esq.
16 Attorneys for Plaintiff
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